



**COUNCILLOR PHIL DAVIES**

**CABINET  
17 DECEMBER 2015**

**PROPOSED COMPULSORY PURCHASE ORDER  
305, 307 AND 321 BOROUGH ROAD  
BIRKENHEAD**

**Councillor Phil Davies, Leader of Wirral Council, said:**

“This decision is a clear demonstration of our determination to ensure an attractive local environment for Wirral residents – a Pledge we committed to in our Wirral Plan for 2020.

“These properties are in the heart of Birkenhead; an area which is absolutely vital to the future economic prosperity of Wirral and an area which is set to benefit from a transformational programme of regeneration in the coming years.

“The purchase of these properties, and the additional investment of £100,000 for landscaping and environmental work to improve the area, is a step in the right direction and I’m sure local people will join me in welcoming this decision.”

**REPORT SUMMARY**

This report updates Members on the progress made in acquiring properties within the block 305-329 Borough Road, Birkenhead. In addition the report requests that Cabinet authorises the use of Compulsory Purchase Order powers under the Town and Country Planning Act 1990: Section 226(1)(a) to acquire the remaining properties, numbers 305, 307 and 321 ( “the Order land”) shown coloured pink and edged in red on the plan at Appendix 1. This will enable the Council to undertake environmental improvement works to a key road corridor into Birkenhead Town Centre.

This report affects the Birkenhead and Tranmere ward and is not a key decision.

This is a key theme under the Wirral Plan: 20/20 Vision, An Attractive Local Environment for Wirral Residents.

This report contains exempt information set out in paragraph 3 of Part 1 Schedule 12A of the Local Government Act 1972 and includes the current position with regards to negotiations to acquire remaining legal interests in the Order Land. The exempt information is in Appendix 2.

## **RECOMMENDATION/S**

- 1) That Members note the progress made in acquiring the properties.
- 2) The Council authorise the use of Compulsory Purchase Order powers under the Town and Country Planning Act 1990, Section 226(1)(a), for the acquisition of the Order Land to complete the acquisition of land and property shown coloured pink and edged in red on the plan at Appendix 1.
- 3) That the Head of Legal be authorised to take all necessary steps to secure the making , confirmation and implementation of the Compulsory Purchase Order including the publication and service of all notices and the presentation of the Councils case at any Public Inquiry and acquire the interests in the Order Land either by agreement or compulsorily.
- 4) That Cabinet approves funding the environmental improvement works of £106,026 as detailed in section 5.2 of this report.

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

- 1.1 Acquisition of the Order Land is needed to carry out the environmental improvements to the area.
- 1.2 To remove properties that are derelict and in a poor condition and consequently detracting from the general amenity on Borough Road.
- 1.3 In the absence of a voluntary sale by the owners of the Order Land the most appropriate compulsory purchase power is under Section 226(1) (a) as explained in this report.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 Given the dilapidated condition and low demand for these properties, demolition and landscaping the cleared site is deemed the most appropriate course of action. Negotiations to conclude the acquisition of the Properties within the Order Land will continue in parallel with the CPO process

### **3.0 BACKGROUND INFORMATION**

- 3.1 The Order Land is located in a single terraced block in a prominent position on Borough Road, adjacent to Birkenhead Central Library. Immediately to the rear of the properties is Shaw Street, which is a block of terraced housing. St Werburgh's RC Primary school is also a short distance away.
- 3.2 The block previously consisted of a row of 13 terraced back of pavement properties with walled yards to the rear. They originally comprised shop units to the ground floor with residential accommodation above. Over time, some of the properties have been converted into residential accommodation in the form of flats. No retail or commercial businesses currently operate from any of the properties. The block is considered to be in a dilapidated condition.
- 3.3 As Members will be aware, the Government established the Housing Market Renewal Fund in 2003, which Wirral was a key partner through the Merseyside pathfinder 'Newheartlands'. The Council started a programme of investigative work in relation to the future of houses, land and commercial interests located in various 'high housing market stress' areas on the eastern side of the borough, which included Birkenhead and Tranmere.
- 3.4 As part of the Housing Market Renewal Initiative, the Council commissioned an independent consultant, GVA Grimley to undertake a comprehensive study on the restructuring of local housing markets within Inner Wirral. The findings of this formed the basis for the strategic document "A strategy for Inner Wirral 2004-2014". The impetus of the strategy involves tackling low demand and housing market failure in Inner Wirral.
- 3.5 The Strategy for Inner Wirral is based upon a comprehensive approach that defines and prioritises areas for intervention. The Order Land was identified

as being within a high stress priority action area in the Neighbourhood Development Framework for Tranmere and within an area that has been designated as an opportunity for environmental improvements. At the time, as with other priority areas, the Council authorised officers to make strategic acquisitions as and when opportunities arose.

### **THE CURRENT POSITION**

- 3.6 In 2006 the then owner of three properties, 325, 327 and 329 Borough Road contacted the Council with a view to dispose of the properties and in accordance with Cabinet approval (22nd July 2004, Minute 90) the Council acquired the same on the 25th July 2006. 309 Borough Road was acquired on the 12/6/2008 and the remaining properties 311, 313, 315, 317 and 319 were acquired by agreement by the Council on the 5th June 2009. These were duly bought in as strategic acquisitions as part of the Housing Market Renewal Programme.
- 3.7 Over a number of years the block has fallen into a dilapidated condition. The Council has now acquired all but three of the original thirteen properties by agreement and all the properties that are owned by the Council are vacant and have been secured to prevent acts of theft, vandalism and for health and safety reasons.
- 3.8 In 2014, three of the Council owned properties 325, 327 and 329 were storm damaged and subsequently had to be demolished as the buildings had fallen into a dangerous condition.
- 3.9 Asset Management have been in negotiations to acquire the Order Land which are the subject of this report, but to date this has not been successful. (See exempt information in Appendix 2 for details).

### **1.0 COMPULSORY PURCHASE ORDERS**

- 4.1 The compulsory purchase process is intended as a last resort, should attempts to acquire by agreement fail. The Council's Legal department has advised that a Compulsory Purchase timetable in conjunction with ongoing negotiations should be drawn up as it is essential that the council minimises any delay to the proposed environmental improvement works by completing the statutory process as quickly as possible. In addition to the making of a compulsory purchase order Section 226(1)(a) of the Town and Country Planning Act 1990 ("the Act"), Section 226 (1) (a) states that on being authorised to do so by the Secretary of State, a local authority has the power to acquire compulsorily any land in their area if the authority thinks that the acquisition will facilitate the carrying out improvement on or in relation to the land. Under Section 226(1)(a) the Council cannot exercise this power under s226(1) (a) unless it thinks that the improvement is likely to contribute to achievement of the promotion and/or improvement of the economic, social or environmental well-being of the Council's area.

4.2 The Order site, because of its derelict nature and prominence has a detrimental impact on the environmental well-being of the area. The acquisition of the Order Land is essential for the following reasons:

- [i] To undertake environmental improvements of this prominent area along Borough Road.
- [ii] To remove a derelict eyesore and the dilapidated properties
- [iii] In its present condition the Order site detracts from the amenity of the area and if left in its present condition could hinder future inward investment in the area.
- [iv] The site detracts from the improvements already completed in this part of Birkenhead. Specifically, the environmental improvements that have already been undertaken along adjacent neighbouring sites.

## **5.0 FINANCIAL IMPLICATIONS**

5.1 The acquisition, legal and clearance costs and should this be necessary, possible Local Public inquiry costs will be met from the residual Housing Renewal budget that has been allocated for this purpose.

5.2 There are additional costs for the environmental improvements that are not covered by the demolition. The Council's Universal and Infrastructure Services Department have designed a proposed landscaping and environmental scheme for the site. This would involve creating a new footpath and landscaping. The costs of this, including fees for planning and its construction are estimated to be £106,026 across the cleared land. This will be met from the Highways/verge maintenance budget.

## **6.0 LEGAL IMPLICATIONS**

6.1 It is acknowledged that the compulsory acquisition of the Order Land will amount to an interference with the human rights of those with an interest in the Order Land. These will include rights under Article 1 of the First Protocol of the European Convention on Human Rights ("ECHR") (which provides that every natural or legal person is entitled to peaceful enjoyment of his possessions) and Article 8 of the ECHR (which provides that everyone has the right to respect for his private and family life, his home and his correspondence. However, the acquisition of land 'in the public interest' is specifically allowed by the ECHR. The Council is of the view that there is a compelling case in the public interest for the compulsory acquisition of the Order Land which outweighs the ECHR rights and that the use of compulsory purchase powers in this matter is proportionate as this will improve the environmental well-being of the area.

## **7.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

- 7.1 Staffing costs will be met using current staffing resources within the Regeneration, Private sector housing and Legal teams to take forward a CPO.
- 7.2 There will be future on-going maintenance costs for the upkeep of the landscaped site. It is proposed that the site is adopted by the Council and maintained by the Highways section.

## **8.0 RELEVANT RISKS**

- 8.1 There is a risk that any Compulsory Purchase Order action taken will result in objections being received which could result in a Local Public Inquiry. This will prolong the time taken to secure ownership and demolition of the remaining interests. As with all CPO proceedings it is difficult to project exactly how long the process will take but this could be over 2 years from start to finish. The service of the CPO in a timely manner will ensure that the Council has used its best endeavours in relation to the procedural matters under its control.
- 8.2 Any objections formally made to the service of a CPO could result in a Local Public Inquiry being held and there is a possibility that the Secretary of State may not confirm the CPO following the Inquiry. However officers advise that there is a compelling case in the public interest to use CPO powers for the Order Land and are confident of a positive outcome.

## **9.0 ENGAGEMENT/CONSULTATION**

- 9.1 Ward members and local residents have been informed of the proposal to seek the use of Compulsory Purchase Order powers by Council Officers.
- 9.2 The owners would be notified and kept informed as the CPO process progresses. Negotiations to acquire the properties by agreement will continue in conjunction with the CPO.

## **10.0 EQUALITY IMPLICATIONS**

Has the potential impact of your proposal(s) been reviewed with regard to equality?

No because there is no relevance to equality.

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## **APPENDICES**

1. Map showing order properties
2. Exempt information

## **REFERENCE MATERIAL**

A strategy for Inner Wirral 2004-2014, (January 2004), GVA Grimley.

## **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>